

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JOHNNY M. HUNT,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 3:23-cv-00243
)	
SOUTHERN BAPTIST CONVENTION;)	Judge Campbell
GUIDEPOST SOLUTIONS LLC; and)	Magistrate Judge Frensley
EXECUTIVE COMMITTEE OF THE)	Jury Demand
SOUTHERN BAPTIST CONVENTION,)	
)	
Defendants.)	

**PLAINTIFF’S RESPONSE IN OPPOSITION TO GUIDEPOST SOLUTIONS LLC’S
MOTION FOR ENTRY OF SECOND AMENDED AGREED PROTECTIVE ORDER**

Plaintiff Johnny M. Hunt, by and through the undersigned counsel, respectfully submits this Response in Opposition to Guidepost Solutions LLC’s Motion for Entry of Second Amended Agreed Protective Order (Doc. No. 122). Of the 23,493 total pages produced by Guidepost, an astounding 11,941 pages (51%) have been designated “Attorneys’ Eyes Only” (“AEO”). It is obvious from this number and just a few examples highlighted in Plaintiff’s Second Motion to Compel (Doc. Nos. 107 and 116) that Guidepost has not made any effort to determine, on a document-by-document basis, whether these designations were appropriate. Instead, Guidepost is abusing AEO designations and using it as means to slow discovery proceedings and prevent Plaintiff from viewing key documents relating to the allegations against him.

Now, Guidepost seeks to modify the Amended Agreed Protective Order a second time to extend its provisions to third parties.

ARGUMENT

The amendments proposed by Guidepost are not necessary for any third-party productions to occur in the case. If Guidepost is more comfortable explicitly adding third parties to the Amended Agreed Protective Order, Plaintiff does not object. However, appropriate safeguards need to be adopted in order to prevent the continued misuse of AEO designations. Plaintiff proposes that the following language be added to the Amended Agreed Protective Order (“Good Faith Provisions”):

- **Certification.** The designation of any document as “Highly Confidential – Attorneys’ Eyes Only” is a certification by an attorney that the document contains highly sensitive information, such as trade secrets, information covered by a recognized privilege (such as the attorney-client privilege), tax documents and related information, and information required by statute to be maintained in confidence.
- **Reasonable and Good Faith Designations.** Each Party or non-Party that designates material for protection under this Protective Order agrees to act reasonably, as warranted by the circumstances of their respective discovery obligations, and in good faith in applying the standards set forth herein for designating documents as “Highly Confidential.”
- **Legal Fees.** If a Party challenges any designation under paragraph 8, and the Court finds that the producing Party acted in bad faith with respect to the confidentiality designations, the producing Party will be liable to the challenging party for attorneys’ fees and costs associated with a motion to challenge.

Thus, a party or non-party cannot designate a document as “Highly Confidential – Attorneys’ Eyes Only” unless the producing attorney certifies that the document contains highly sensitive information as defined in the Protective Order. These Good Faith Provisions are specifically targeted to prevent blanket designations of documents without a careful and good-faith review of its content and will hopefully lower the risk of any disputes over confidentiality designations in the future.

CONCLUSION

Plaintiff respectfully requests that the Court enter the Second Amended Agreed Protective Order with the language proposed by Guidepost, but include Plaintiff's Good Faith Provisions to prevent the continued mistreatment of "Attorneys' Eyes Only" designations.

Dated: February 26, 2024

Respectfully submitted,

s/ Andrew Goldstein

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Plaintiff's Response in Opposition to Guidepost Solutions LLC's Motion for Entry of Second Amended Agreed Protective Order to be electronically filed with the Clerk of the Court on February 26, 2024, using the CM/ECF system, which will automatically serve all counsel of record listed below:

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